SB Civil Writ Petition No.916/2004

Nanagram(Deceased) through LRs Vs Rajasthan State Co-operative Tribunal, Jaipur & ors

12.12.2006

Hon'ble Mr Justice Ashok Parihar

Mr Ashok Mishra – for petitioners

Mr BK Pathak, Sr Adv with Mrs Sonia Shandilya – for resp

BY THE COURT:

On the basis of an audit report, a recover of Rs.10,000/- approximately was ordered by the Assistant Registrar, Co-operative vide order dated 22.11.1971. The petitioner Nanagram (since deceased) expressed his inability to deposit the amount so ordered to be recovered and he offered to surrender his house in lieu of the recovery. As per request made by the petitioner, a resolution was passed by the respondent society on 14.12.1971 accepting the offer made by the petitioner. As per the offer and resolution passed by the society, the petitioner even handed over his house to the society. It was after more than 21 years that the petitioner filed a suit under section 75 of the Rajasthan Co-operative Societies Act, 1965 in the year 1992. The matter was referred to the Arbitrator. After considering the material on record, the Arbitrator, vide order dated 1.10.1992, though held the embezzlement by the petitioner, however, issued certain directions to the extent that the society may hand over the possession of the house back to the

petitioner-Nanagram on depositing the amount so ordered to be recovered and, since the house had been kept by the society for such a long period, the society may not claim any interest on the same. The above Nanagram was also held not entitled for any damages for the period the house was in possession of the society.

The order dated 1.10.1992, passed by the Arbitrator was challenged by the society before the Tribunal. The appeal was dismissed by the Tribunal vide order dated 27.11.1993. The writ petition filed by the society was also dismissed by this court vide order dated 1.4.1994. However, the Division Bench, while allowing the Special Appeal filed by the society vide order dated 31.10.1996, remanded the matter back to the Tribunal. On remand of the matter, after due consideration on the points referred by the Division Bench, the Tribunal allowed the appeal filed by the society vide order dated 4.2.1999 setting aside the order passed by the Arbitrator.

Though, the present writ petition was filed by the petitioner on 4.10.1999, however, the defects were removed only in February, 2004.Be that as it may, after hearing learned counsel for the parties, I have carefully gone through the material on record.

On the face of it, there appears to be a glaring case of protracted litigation without any sufficient cause.

No reason, whatsoever, has been given by the petitioners for raising the dispute before the Assistant Registrar under section 75 of the Act after more than 21 years. Since, after due consideration, proper discretion has been used by the Tribunal in passing the impugned order dated 4.2.1999 as per directions of the Division Bench of this Court, in the facts and circumstances, no further interference is called for by this court. The writ petition is dismissed accordingly as having no merit.

(Ashok Parihar) J.

bnsharma